



FILED:
August 9,
2023

**STATE OF INDIANA
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Gregory L. Wilson, Sr., in his official capacity as Executive Director of the Indiana Civil Rights Commission and Adhanom Tesfa, Complainant, V. M&J Management Company, LLC and Eagle Creek Court, LLC, Respondents.	Administrative Cause No.: ICRC-2302-000249 Underlying Agency Action No.: HOfs22090543 05-22-7012-8
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FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

Pursuant to IC 4-21.5 and the Commission's June 19, 2020 Order: Automatic Adoption and Approval of Certain Non-Final Decisions, this Order is final, having been automatically approved by the Indiana Civil Rights Commission.

PROCEDURAL HISTORY & JURISDICTION

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing discrimination complaints based on familial status that are filed under the Indiana Fair Housing Act ("IFHA"). IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5. On February 3, 2023, the ICRC, after conducting a neutral investigation, made a reasonable cause finding on Adhanom Tesfa's September 14, 2022 complaint that alleged Respondents violated the Indiana Fair Housing Act ("IFHA") by discriminating against Adhanom Tesfa in the protected area of housing on the basis of familial status. When a finding of cause is made under the IFHA, pursuant to the Commission's June 19, 2020 Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9.5-6-14; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

ISSUE

Is Complainant's Unopposed Motion to Dismiss ("Motion") effective in dismissing this matter?

FINDINGS OF FACT

1. The Motion was filed on July 24, 2023.
2. As represented in the Motion, the Complainant wished to withdraw the complaint due to the repeated failure of the aggrieved party, Adhahom Tesfa, to communicate and cooperate

with Complainant in prosecuting his claim. As a result, Complainant requests that this matter be dismissed.

3. The Motion was served on all Parties before a Notice of Hearing was issued. Respondent did not object to the Motion.
4. On June 5, 2023, the undersigned ALJ issued an Order on Prehearing Conference to all parties and interested persons. A status conference was scheduled on August 9, 2023, for the purpose of discussing the status of this matter.
5. The June 5, 2023, Order on Prehearing Conference was served on all parties and interested persons. On August 9, 2023, the aggrieved person failed to appear for the Status Conference, and to date has filed no objection to the Motion to Dismiss.
6. There is no evidence of fraud, coercion, duress, or any other reason not to grant the requested dismissal.
7. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such, and this Order's statement of Procedural History is incorporated into these Findings of Fact.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the Parties. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-3; IND. CODE § 22-9.5-5-5.
2. The Parties did not file a "consent agreement" or "conciliation agreement" that requires the approval and signature of a majority of the Commissioners. IND. CODE § 22-9-1-6(o); 910 IAC 1-3-4; IND. CODE § 22-9.5-6-5; 910 IAC 2-6-5.
3. An individual making a Complaint before the Commission has a duty to diligently prosecute his/her claim. 910 IAC 1-16-1. Such a duty includes "respond[ing], in a timely manner, to any and all requests by members of the commission's staff that are reasonably necessary to the conduct of an investigation by the commission." 910 IAC 1-16- 1(a)(6). Failure by an individual to diligently prosecute their claim before the Commission "may result in issuance of a finding that complainant did not proceed and a dismissal of the complaint with prejudice, in accordance with this article." 910 IAC 1-16-1(b).
4. Furthermore, on June 19, 2020, the ICRC Commission issued its Order: Automatic Adoption and Approval of Certain Non-Final Decisions ("Commission's Order"). As detailed in the Commission's Order (attached as Exhibit A), the Commission, by majority vote, agreed to automatically approve any non-final decision issued by an ALJ in which an ALJ accepts a joint motion to dismiss, provided the Parties waive their right to object to the ALJ's decision under IAOPA.
5. Complainant filed Complainant's Motion prior to the setting of a hearing in this matter. Respondent did not object to the motion.

6. The aggrieved party has failed to diligently prosecute his claim in this matter.
7. Accordingly, this matter is dismissed, and pursuant to IC 4-21.5-3-29 and the Commission's Order, this Order is an automatically affirmed as a Final Order disposing of the proceedings. IND. CODE § 4-21.5-3-27(a).
8. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order's Statement of Jurisdiction is incorporated into these Conclusions of Law.

DECISION

Having duly considered the above, the undersigned Administrative Law Judge ("ALJ") for the Office of Administrative Law Proceedings ("OALP") hereby orders as follows:

1. Complainant's Motion is GRANTED.
2. Adhanom Tesfa's September 14, 2022 Complaint is DISMISSED, with prejudice.
3. Either Party to a dispute filed under IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IND. CODE § 22-9.5-11-1.

SO ORDERED: August 9, 2023



Hon. LaKeshia Triggs, Administrative Law Judge
Indiana Office of Administrative Law Proceedings
100 North Senate Ave., Room N802
Indianapolis, IN 46204
(317) 234-6689

Distribution List:

The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IND. CODE § 4-21.5-3-18.

Gregory L. Wilson, Sr.: 100 N. Senate, Suite 300, Indianapolis, IN 46204

Adhanom Tesfa: 2922 Embassy Court, Indianapolis, IN 46224

Vanessa Powell*: 100 N. Senate, Suite 300, Indianapolis, IN 46204

M & J Management Company, LLC and Eagle Creek Court c/o G. Marlyne Sexton, R.A.*: 9001 North Meridian Street, Indianapolis, IN 46260

Hannah Oates*: One American Square, Suite 2900 Indianapolis, IN 46282-0200

Catherine Strauss*: One American Square, Suite 2900 Indianapolis, IN 46282-0200

Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at docketclerk@icrc.in.gov

**served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys – all other service by mail.*

**INDIANA CIVIL RIGHTS COMMISSION
ORDER: AUTOMATIC ADOPTION AND APPROVAL OF CERTAIN NON-FINAL
DECISIONS**

On June 19, 2020, the Majority of the Indiana Civil Rights Commission voted, under Indiana Code 4-21.5-3-29, to automatically adopt and approve as a final order any decision issued by an Administrative Law Judge ("ALJ") assigned to a matter under the June 19, 2020 Order: Finding of Necessity in which the assigned ALJ accepts the following:

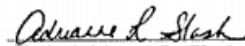
1. A Joint Motion to Dismiss or similar motion in which all parties move for the matter's dismissal and waive their right to file objections to a decision issued by the ALJ under Indiana Code 4-21.5-3-29; and
2. A Notice of Withdrawal filed by Complainant before a date for a hearing has been set, provided the Notice of Withdrawal complies with 910 IAC 1-2-6(A)(i) and 910 IAC 1-2-6(B).

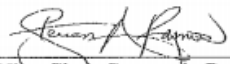
This Order does not apply to any Consent or Conciliation Agreements which require the signature of all approving Commission Members to be effective.

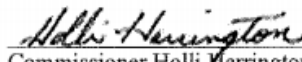
This Order applies with equal force to decisions issued under Indiana Code 22-9, *et. seq.* and Indiana Code 22-9.5, *et. seq.*

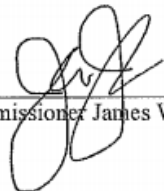
This Order is effective immediately.

SO ORDERED on June 19, 2020 by the majority vote of 4 Commissioners:


Chair Adrienne L. Slash


Vice-Chair Steven A. Ramos


Commissioner Holli Harrington


Commissioner James W. Jackson